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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Note verbale dated 16 October 2003 from the Permanent Mission of Viet Nam to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Socialist Republic of Viet Nam to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999), and with reference to the latter's letter, has the honour to submit the updated report requested (see annex).

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Annex to the note verbale dated 16 October 2003 from the Permanent Mission of Viet Nam to the United Nations addressed to the Chairman of the Committee

THE SOCIALIST REPUBLIC OF VIETNAM

REPORT

SUBMITTED TO THE COMMITTEE ESTABLISHED UNDER RESOLUTION 1267 (1999) OF THE UNITED NATIONS SECURITY COUNCIL PURSUANT TO PARAGRAPHS 6 AND 12 OF RESOLUTION 1455 (2003) OF THE SECURITY COUNCIL

I. INTRODUCTION

1. Vietnam strongly condemns all terrorist acts in any form and under any motive and holds that anti-terrorism measures must be carried out in accordance with the principles of sovereignty, territorial integrity and the United Nations Charter.

Vietnam is resolutely opposed to any conspiration and any act aimed at interfering into internal affairs of sovereign states and causing sufferings to innocent civilians under the pretext of combating terrorism.

Vietnam is of the view that terrorism can only be eliminated by thoroughly addressing all its underlying causes, among which poverty and development gaps are the main ones.

Vietnam is fully aware of the potential threat posed by terrorists and terrorist organizations to the region as well as of its adverse impact upon the stability, security and development of Vietnam.

Following the cooperative activities with the 1267 Committee pursuant to paragraph 4 (b) of Resolution 1267 (1999), paragraph 8 (c) of Resolution 1333 (2000) and paragraphs 1 and 2 of Resolution 1390 (2002), Vietnam has carefully studied the Guidance attached to the Note No. SCA/2/03 (03) dated 04 March 2003 in order to continue effective cooperation on this matter.

Accordingly, up to now, the competent authorities of Vietnam have not found in its territory either activities of Usama bin Laden, Al-Qaida, Taliban and associated individuals and entities or any threat

they could pose to Vietnam. Vietnam, however, always heightens her awareness of these individuals and entities. Over the past time, there existed some Vietnamese terrorist groups in the United States (such as the so-called Revolutionary Government of Free Vietnam led by Nguyen Huu Chanh) who committed terrorist acts by bombing, threatening lives and properties of Vietnam's Representative Offices in Thailand and Philippine. Besides, Chanh's group had intended to terrorize by bombing some areas in Vietnam but Vietnam's authorities timely found out his intention so that individuals who had entered Vietnam to carry out such terrorist acts were arrested. Vietnam's authorities continue its investigation to clarify if this group is associated with terrorist organizations of Al-Qaida and Taliban.

II. CONSOLIDATED LIST

2. Measures to incorporate the 1267 Committee's List (hereinafter mentioned as "the List") in Vietnam's legal system and administrative structure:

2.1. Up to now, Vietnam has not enacted any specific legal document on the entities and individuals in the List. This is a new issue in the legislative practices of Vietnam. Vietnamese laws provide appropriate measures against general subject matters without mentioning specific entities or individuals.

2.2. However, the competent authorities of Vietnam (Ministry of Defense, Ministry of Public Security, Ministry of Foreign Affairs, Ministry of Justice, Ministry of Finance and State Bank of Vietnam etc.) are informed in full and on time of the List. The updated List Vietnam received from the 1267 Committee (every three months) will certainly continue to be circulated to these authorities. The Vietnamese Government is taking appropriate measures to put the individuals and entities in the 1267 Committee's List under examination, financial supervision, customs and immigration control. Particularly, these individuals will be included in the List of persons who are prohibited from entering into Vietnam.

3. Problems in clarifying the names and identifying information included in the List:

Currently, the List, by and large, has provided only the names of individuals without photos or other identifying information. Vietnam's

authorities, therefore, find it difficult to examine, detect and prevent the entries of these individuals into Vietnam's territory.

4. The competent authorities of Vietnam have not found out in its territory the presence of any individual or entity included in the List.

5. The competent authorities of Vietnam have not found out any individual or entity associated with Usama Bin Laden or members of the Taliban or Al-Qaida that have not been included in the List.

6. No individual or entity included in the List has engaged in any legal proceedings against Vietnam's authorities for inclusion in the List.

7. The competent authorities of Vietnam have not identified any individuals included in the List as nationals or residents of Vietnam. So far, the competent authorities of Vietnam do not have any information relating to any the individual who is not already included in the List. Vietnam will continue to scrutinize and provide the above-mentioned information, if any, to the 1267 Committee.

8. The competent authorities of Vietnam have not detected any case of recruiting or supporting members of Al-Qaida in carrying out activities in Vietnam's territory. There is no Al-Qaida training camps established in Vietnam's territory.

III. FINANCIAL AND ECONOMIC ASSETS FREEZE

9. Domestic legal basis to implement the asset freeze as required by relevant resolutions of the UN Security Council; impediments under domestic law in this context and steps taken to address them:

9.1. The most important legal basis for Vietnam to implement the asset freeze as required by the relevant resolutions of the UN Security Council is the International Convention for the Suppression of the Financing of Terrorism to which Vietnam has already acceded (the Convention entered into force for Vietnam on October 25, 2002).

In addition, the above-mentioned asset freeze can be implemented in accordance with the existing laws and regulations of Vietnam. These provisions can be found in some legal documents such as Penal Code, Code on Criminal Procedure, Law on Credit

Institutions, Government's Decree No. 64/2001/ND-CP dated 20 September, 2001 on the payment via Payment service Organizations etc.

According to Article 41 of the Penal Code, the proceeds of crime shall be confiscated. Before confiscating, interim procedures such as making inventory and freeze of banking account will be taken in order to prevent the use, disposal and dispersal of the assets which will be confiscated pursuant to the court's order. Article 115 of the Code on Criminal Procedure entitles the investigating agencies to carry out physical examination, searching dwelling, places, things, correspondence, postal parcels and matters for the seizure of tools and equipment used to commit crimes and of objects and proceeds of crimes. Under Article 121 of the Code on Criminal Procedure, the investigating agencies will make an inventory of the confiscated properties.

The law of Vietnam on credit and banking also contains some provisions on preventing and combating transactions relating to illegal money. Article 115 of the Law on Credit Institutions provides the application of measures to prevent the transactions relating to the money of illegal origin as one measure of the state management on banking activities. Article 19 of the Law on Credit Institution provides that credit institutions and other banking organizations shall not conceal, conduct any service relating to the money that is proven to be of illegal origin. In case of detecting an illegal sign of an amount of money, credit institutions and other banking organizations shall promptly inform competent state authorities.

9.2. However, Vietnam has yet enacted any separate legal document regulating the prevention and suppression of the financing of terrorism. Therefore, there is not adequate legal basis for freezing, confiscating and inventorying accounts in bank or credit institutions of the individuals who are alleged to finance terrorists. The present Code on Criminal Procedure does not contain provisions on freezing bank account of criminals, in general, and persons committing terrorist acts, in particular.

9.3. In the time to come, the competent authorities of Vietnam plan to amend the Code on Criminal Procedure along the direction of including the above-mentioned provisions in this Code.

In addition, the State Bank of Vietnam is, in collaboration with other agencies concerned, elaborating a Government's Degree on Money Laundering, which institutionalizes measures to prevent and suppress the financing of terrorism and clearly specifies responsibilities of agencies concerned in this regard.

10. Mechanisms to identify and investigate Usama bin Laden, Al-Qaida or Taliban - related financial networks; Vietnam's efforts in international cooperation:

10.1. The State Bank of Vietnam plays the key role in coordinating with domestic commercial banks to thoroughly scrutinize bank accounts and transactions in order to find out whether the individuals and entities included in the List have made any transactions with these banks. The commercial banks will coordinate with the State Bank of Vietnam to inform the Ministry of Public Security and the Ministry of Foreign Affairs of the said transactions, if any, to take necessary remedies.

10.2. On the regional and international cooperation on anti-terrorism, Vietnam is participating in the implementation of the Initiative on Alternative Remittance System within the APEC financial cooperation process with an aim to assessing the legal framework and systematic management of the contracting parties in order to recommend the APEC Financial Minister's Meetings measures to strengthen the financial sectors of State members and to better combat the financing of terrorism. Besides, Vietnam is also implementing the initiative on combating money laundering put forth by the ASEM Financial Minister's Meetings.

11. Steps taken by banks and/ or other financial institutions to locate and identify assets attributable to, or for the benefit of, Usama bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals; "due diligence" or "know your customer" requirements:

11.1. After receiving request and list of persons suspected to have connections with terrorist networks from the Ministry of Foreign Affairs, the State Bank of Vietnam shall forward this information to Vietnam's commercial banks for their scrutiny. The commercial banks shall conduct careful scrutiny manually as well as on the computers all accounts and transactions under their control to discover any customer of the name of the origin as the provided identifying information. With

the information and list of individuals provided, the State Bank of Vietnam, so far, has undertaken 6 rounds of scrutiny and has been reported by the commercial banks that there is no suspect who is subject to be informed to the United Nations.

11.2. Vietnamese banks, in general, follow the practices and standards of international banking activities ("know your customer") and strictly observe domestic laws and regulations of the host countries ("due diligence").

12. Regarding the frozen assets of the individuals and entities included in the List, Vietnamese commercial banks, so far, have not found out any accounts or funds of them.

13. Pursuant to Resolution 1452 (2002), Vietnam has not frozen or released any fund, financial and economic asset related Usama bin Laden or members of Al-Qaida, Taliban and associated individuals or entities as no account or fund of them was found.

14. Domestic legal basis to control the movements of funds or assets to the listed individuals or entities:

14.1. On the procedure of reporting suspicious transaction (relating to terrorist financing, fraud, money laundering etc.), up to now, Vietnam has not promulgated any legal documents formally and specifically regulating the suspicious transaction reports. However, as bound by Article 18 of the International Convention for the Suppression of the Financing of Terrorism, Vietnam shall adopt regulations imposing on financial institutions the obligation to promptly report to the competent authorities all complex, unusual large transactions and unusual patterns of transactions, which have no apparent economic or obviously lawful purpose, without fear of assuming criminal or civil liability for breach of any restriction on disclosure of information if they report their suspicions in good faith. As earlier stated in Paragraph 9.3, the State Bank, under Government's directive, is coordinating with other agencies concerned to draft the Government's Decree on combating money laundering. The provisions on reporting and processing of information relating to suspicious transactions will be specified in this Decree.

14.2. Some restrictions and regulations on the movement of precious commodities:

Decision No. 416-1998/QD-NHNN7 dated 08 December 1998 of the Governor of the State Bank on the bringing of gold by individuals when entering into or departing from Vietnam provides as follows:

"*Article 2. Individuals when departing from or entering into Vietnam will not have to declare at the Vietnam's border checkpoints if they bring along gold for non-commercial purposes with maximum weight of 300 gram (or besides the wearing jewelry, the quantity of each type not exceeding 5 pieces or 5 sets, in case of jewelry).*

Article 3. Individuals who bring gold (not of international standard) with the amount exceeding the maximum weight prescribed under Article 2 of this Decision but not exceeding 3000 gram when entering into Vietnam shall declare and pay tax for the exceeded amount in accordance with the relevant regulations. In case of exceeding 3000 gram, they shall complete the necessary procedures to lodge the excesses in the customs warehouse in order to bring them back when departing or to send them abroad. These individuals shall bear the arising costs.

...

Article 4. Individuals who bring more than 300 gram of gold when departing from Vietnam shall to apply for permission by the State Bank of Vietnam on the amount exceeding 300 gram.

...

Article 5. Procedure to apply for permission to bring gold when departing from Vietnam

Individual who wants to apply for permission to bring gold when departing from Vietnam under Article 4 of this Decision shall file its documents to the Central State Bank or the local branches of the State Bank in the districts or cities in accordance with the authorities to grant permission as prescribed under Article 6 of this Decision. The documents shall include:

1. An application to bring gold (which clarifies the purposes to bring gold);

2. Other documents specifying the origins of the gold to be brought (if any);

3. Certified copy of passport (if the passport copy is not certified, the original passport must be presented for reference).

..."

IV. TRAVEL BAN

15. Legislative and administrative measures to implement the travel ban with regards to individuals included in the List:

15.1. Generally speaking, the travel ban and restrictions are stipulated in many legal documents such as the Penal Code, the Ordinance on the Fine of Administrative Violations, Ordinance on the Entry into, Departure out and Residence in Vietnam of Foreigners and the Government's Degree No. 21/2001/ND-CP dated 28 May, 2001 on the Implementation of the Ordinance on the Entry into, Departure out and Residence in Vietnam of Foreigners.

15.2. Individuals in the 1267 Committee's List are included in the List of persons who are prohibited from entering into Vietnam.

At Vietnam's border checkpoints, competent authorities when checking passports or substituted documents, visas to enter Vietnam will collate the entering or departing person with List of persons who are prohibited from entering into Vietnam. If that person has the same name or personal identity with a person in the List, they will make a minute and promptly report to superiors to take appropriate measures.

16. Vietnam has included the names of listed individuals in List of persons who are prohibited from entering into Vietnam.

As was stated above in Paragraph 3, the List, however, provides only the names of individuals without photos or other identifying information. Competent authorities of Vietnam, therefore, find it difficult to check, detect these individuals and prevent them from entering into or transiting Vietnam.

17. The updated List of the 1267 Committee will be transmitted, right after the receipt of it, to competent authorities to update the List of persons who are prohibited from entering into Vietnam and to take appropriate steps.

At present, Vietnam has made tremendous efforts but due to the technical and financial restraints, electronic means to search List data have not been put in place at all border checkpoint, especially land border check points and seaports.

18. At every Vietnam's border checkpoint, competent authorities have not identified any listed individual entering into or transiting Vietnam.

19. Vietnam's Consular offices have always received the information concerning the List of persons who are prohibited from entering into Vietnam on time and in full. So far, these offices have not identified any listed individuals applying for visas to enter into Vietnam.

V. ARMS EMBARGO

Under the sanctions regime, all States are requested to prevent the direct or indirect supply, sale and transfer, to Usama bin Laden, members of Al-Qaida and Taliban organizations and other individuals and entities associated with them, from their territories or by their nationals outside their territories of arms and related material of all types, including the provision of spare parts and technical advice, assistance, or training related to military activities (paragraph 2 (c) of resolutions 1390 (2002) and paragraph 1 of resolution 1455 (2003)).

20. Vietnam does not possess weapons of mass destruction, nor does it export weapons and other equipment and technologies necessary for weapons development and production to Usama bin Laden, members of Al-Qaida and Taliban organizations and other associated individuals and entities. In fact, Vietnam has adopted many regulations on the control of weapons and explosives possession, transfer and export (as mentioned in Paragraph 3, Part II, Section B of the Supplementary Report to the Counter Terrorism Committee of the United Nations Security Council pursuant to paragraph 6 of Security Council Resolution 1373 (2001) on 18 December 2002).

21. On the criminalization of the violations of the arms embargo directed at Usama bin Laden, members of Al-Qaida and Taliban organizations and other associated individuals and entities:

Vietnam has not adopted any legal documents directly regulating the criminalization of the violations of arms embargo by the above-

mentioned persons and entities. Vietnam, however, has criminalized the offences relating to the management and control of weapons, explosives, toxin, radiation by a specific provision of the Penal Code (as stated in the answer to the Sub-paragraph 2 (a) of the Report to the Counter-Terrorism Committee pursuant to Article 6 of the UN Security Council Resolution 1373 (2001) on 05 February 2002).

22. On the arms/arms broker licensing system to prevent Usama bin Laden, members of Al-Qaida and Taliban organizations and other associated individuals and entities from obtaining items under the established arms embargo:

In Vietnam, civil individuals and entities are not granted license to use weapons. Vietnam has never been arms broker.

23. Safeguards to prevent weapons and ammunition produced within Vietnam from being used by Usama bin Laden, members of Al-Qaida and Taliban organizations and other associated individuals and entities:

The Ministry of Defense of Vietnam is in charge of the unified and strict management of weapons and ammunitions. In order to ensure that the weapons and ammunitions produced within Vietnam are solely used by armed forces and militia and civil individuals are prohibited and entities from using them. Violations of this will be subject to sanctions by the Penal Code of Vietnam.

VI. ASSISTANCE AND CONCLUSION

24. Vietnam is fully aware of the potential threats and severe consequences caused by terrorist acts to all fields and aspects of life in every nation. Vietnam holds that to prevent and suppress international terrorism, states need to strengthen cooperation in a close and comprehensive manner through bilateral, regional and multilateral cooperation, as well as within international organizations. Vietnam strongly supports efforts made by international community against terrorism, on the basis of full compliance with the United Nations Charter, the fundamental principles of international law, and in the interests of peace, stability and security all over the world.

With that in mind, besides steadily consolidating and developing the national legal system aimed at preventing and suppressing terrorism, Vietnam is actively cooperating with the international

community to combat this very dangerous crime by comprehensively and strictly implementing its international commitments in this regards. Besides, Vietnam is also ready to cooperate with other countries and international organizations in the region and over the world in combating international terrorism in accordance with the above-mentioned spirit and principles.

25. In the implementation of Resolution 1455 (2003) and other related Resolutions of the UN Security Council, Vietnam would like to make the following recommendations:

25.1. In order to effectively cooperate in this field, we think that the 1267 Committee and other countries concerned should address the outstanding matters as mentioned in Paragraphs 3 and 16 of this Report.

25.2. Vietnam seeks assistance in the following areas:

25.2.1. Training of inspection skills: at present, Vietnam lacks experts to meet all the complicated requirements arising in the current inspection activities. Vietnam's banking system, therefore, needs technical assistance in order to train a group of specialized experts within the overall network for uniform coordination, meeting the requirements of the Resolution 1455 (2003) and other resolutions adopted by the UN Security Council.

25.2.2. Developing an overall software and computer network to assist the tracking of assets of the suspected terrorists: presently, all headquarters and branches of Vietnam's commercial banks are equipped with computers. But, these banks don't have a uniform software to scrutinize, track and report the assets suspected to belong to the individuals and entities included in the List. The installment of a uniform special software, therefore, is extremely useful for the better implementation by these banks of the Resolution 1455 (2003) and other relevant resolutions of the UN Security Council.